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Lost Lake files discrimination complaint against Forestburgh

Posted Tuesday, December 27, 2022 7:14 am

By Derek Kirk

FORESTBURGH – After the Forestburgh Zoning Board of Appeals (ZBA) denied building permits to the developers of the Lost Lake Holdings LLC property, which was also appealed, a new complaint has been brought forth against the town on the basis of discrimination and antisemitism.

The official complaint was released December 16 and was drafted by Eric W. Treene, partner at Storzer and Associates, P.C. and Steven Barshov, partner at Sive, Paget, and Riesel, P.C.

The plaintiffs in the complaint are named as Lost Lake Holdings LLC and Mishconos Mazah LLC.

The defendants are named as the Town of Forestburgh, as well as its Town Board, ZBA, Town Supervisor Dan Hogue Jr., Chair of the Forestburgh Planning Board Richard Robbins, Town Building Inspector Glenn Gabbard, and Town Assessor Dennis Ketcham.

The complaint was filed in the United States District Court for the Southern District of New York.

Multiple complaints were alleged within the statement. The report essentially states that when the project was spearheaded by Double Diamond LLC, it received support and praise from the town. However, it alleges that since the property was purchased and the project was guided by Hasidic Orthodox Jews, the sentiment has changed.

Also included in the complaint were multiple allegations of instances of “antisemitic animus” within online forums and from recorded statements from members of the community from past public meetings. There are also allegations of antisemitism within other official documents from the town, such as the initial denial letter of the building permits.

The complaint additionally alleges that it was targeting the Hasidic Orthodox Jewish owners of Lost Lake Holdings LLC when the Town Board voted to increase in “Parks and

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The complaint additionally alleges that it was targeting the Hasidic Orthodox Jewish owners of Lost Lake Holdings LLC when the Town Board voted to increase in "Parks and Playground" fees from \$200 per lot to \$2,000 on July 2, 2021. The complaint says this increase would spike the cost of developing future phases of the project to nearly \$4 million.

The statement concludes this section of the complaint by stating "upon information and belief the increase in the Parks and Playground fee was motivated by a bias against Hasidic Orthodox Jews in an effort to prevent Plaintiffs from constructing the Project."

Another claim within the complaint is on the town's alleged misuse of the Escrow accounts that were originally created and set aside by Double Diamond, stating "the Town Board intended to and did misuse the Lost Lake Escrow to pay for consultant and outside legal expenses incurred in connection with the review of a building permit application, which was not authorized in the original PDD law and by using them without limitation and for purposes unrelated to any reasonable oversight of the construction of the Project."

It goes on to allege that the town misused the escrow account in order to research the town's ability to block the Plaintiff's construction of the project.

Other complaints within the report were alleged instances of the town's non-compliance with Freedom of Information Law (FOIL) requests by allegedly withholding specific records, the impacts of the various boards' decisions on the Plaintiffs, their project plans, and the Orthodox Jewish community.

"Federal civil rights laws, the Constitution, and New York law all speak in one voice on the central issue of this case: in America no government may tell people where they are welcome to live and where they are not based on their religion," said Eric W. Treene, attorney for the plaintiffs.

The complaint lists 22 counts of alleged violations against the Plaintiffs rights.

In the prayer for relief, the Plaintiffs requested that the denial of the building permits by the ZBA be made void and invalid, multiple declarations of the various violations of the Plaintiffs rights. It also requests an award of compensatory, consequential, presumed, and punitive damages against the Defendants in favor of the Plaintiffs.

"This developer bought the Lost Lake project because the prior owner had obtained all the approvals needed so building permits could be issued at any time and homes built," said Steven Barshov of Sive, Paget, and Riesel, P.C., "The only reason home construction is not occurring is because Town officials have made it crystal clear: Hasidic Orthodox Jewish developers and homeowners are not welcome in Forestburgh."

Town of Forestburgh Supervisor Dan Hogue told the **Democrat** that the town withholds comment due to pending litigation at this time.

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